

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Harbor Island Inc.)
Dist. 1, Map 50A, Group A, Control Map 50A,) Wilson County
Parcel 35, S.I. 000)
Residential Property)
Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$100,000	\$28,000	\$128,000	\$32,000

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on March 13, 2007 in Lebanon, Tennessee. The taxpayer was represented by Robert Mattix, a member of the Harbor Island Inc. board of directors. Also in attendance at the hearing were J. Donald Turner, a certified general real estate appraiser and Derrick Hammond, an appraiser with the Division of Property Assessments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 211.22' x 145.6' x 280.1' lot and four boat docks located on Harbor Drive in the Harbor Island Subdivision in Old Hickory, Tennessee.

When the Harbor Island Subdivision was originally developed in the 1950's, the parcel in question was designated as a community lot. The lot's designation reflected its inability to serve as a buildable lot. Originally, the lot was designated as a "community dock lot" and subdivision parcel owners not afforded waterfront property were allowed, by special permit from the US Army Corps of Engineers, to attach personal docks to the adjoining Corps owned property. The Corps has, at present, discontinued the granting of these special permits for this parcel. Currently, four individual parcel owners have legacy permits from the US Army Corps of Engineers allowing private docks.

The parties stipulated that the four docks should be assessed to the individual dock owners rather than the appellant. Accordingly, the administrative judge finds that the \$28,000 improvement value assigned to this parcel (\$7,000 per dock) should be deleted and only the value of the land remains at issue.

The taxpayer contended that subject lot should be valued at \$30,000 - \$40,000. In support of this position, Mr. Mattix introduced a detailed written analysis (exhibit #1) explaining why he believes subject property should be appraised at approximately \$40,000.

Mr. Mattix essentially maintained that subject property experiences a drastic diminution in value for five separate reasons. First, subject lot cannot be used for a residential building site because its net size after consideration of the various set-back requirements is insufficient for the minimum 1,600 square foot one story home (or 2,000 square feet for a two story home) required by the subdivision's restrictive covenants. Second, the restrictive covenants preclude using subject lot commercially. Third, subject lot's slope severely limits its use. Fourth, the geophysical condition of the parcel is such that the bedrock is extremely close to the surface or exposed which effectively prevents the planting of additional trees or landscaping. Fifth, the lot cannot process sewage as evidenced by the Tennessee Department of Environment and Conservation's denial of a sewage processing permit.

Mr. Mattix also asserted that the appraisal of subject lot does not achieve equalization. In support of this position, Mr. Mattix noted the assessor's \$46,400 and \$51,000 appraisals of two other lots owned by the taxpayer that also lack utility for residential or commercial development.

The taxpayer also offered into evidence the testimony and written analysis of J. Donald Turner, SRPA, SRA, CAE. Mr. Turner basically testified that "reserve parcels" such as the subject typically command 10% of the value of otherwise comparable building sites. Given the assessor's \$300,000 appraisals of similar building lots, Mr. Turner stated subject property should be appraised at \$30,000.

The assessor contended that subject land should remain valued at \$100,000. In support of this position, Ms. Brown testified that the assessor has already reduced the original \$200,000 appraisal of subject lot by 50% because of its topography. Ms. Brown maintained that this reduction adequately accounts for any loss in value due to the factors summarized above.

Ms. Brown also testified concerning the sale of an unbuildable lot containing less than one-half acre for \$50,000. According to Ms. Brown, the adjoining property owner purchased the parcel as part of an assemblage for a building site. Ms. Brown asserted subject property should command significantly more in the market given its superior water depth and amount of shoreline.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject lot should be valued at \$50,000. As will be discussed below, the administrative judge finds that the sale introduced by Ms. Brown constitutes the best evidence of value.

The administrative judge finds that subject property cannot be utilized as a building site for the reasons articulated by Mr. Mattix. The administrative judge finds that the highest and best use of subject property is for assemblage purposes.

The administrative judge finds that the sale introduced by Ms. Brown involved a lot with a similar highest and best use. The administrative judge recognizes that subject lot is superior in certain respects such as water depth and shoreline. However, the administrative judge finds that such advantages from a market value standpoint are offset by one critical difference. The administrative judge finds Mr. Mattix’s unrefuted testimony established that by merely joining the Harbor Island Yacht Club one can utilize subject lot. According to Mr. Mattix, joining the yacht club entails an upfront cost of \$300.00 and yearly dues of \$500.00. The administrative judge finds that subject lot appears analogous to what is sometimes referred to as a “membership lot” in various retirement communities. The administrative judge finds such lots are typically purchased to enable the buyer to utilize the development’s amenities at a cost far below what a lot suitable for building would command.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$50,000	\$ -0-	\$50,000	\$12,500

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order.

The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 21st day of March, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Robert Mattix
Jimmy Locke, Assessor of Property